

Appl. No. 10/626,087
Amdt. dated 4/25/2006
Reply to the Office Action of 01/25/2006

REMARKS/ARGUMENTS

The Applicants have reviewed the Office Action dated January 25, 2006 and have made amendments to the specification and claims. Reexamination and reconsideration of this application as amended is requested. By this amendment, Claims 1-21 are pending.

Objections to the Specification

The specification was objected to because of specified informalities. The Applicants have amended the specification by providing a replacement paragraph for the "Related Applications" section. The Applicants believe that this amendment fully overcomes the objection to the specification.

Claim Rejections - 35 USC § 101

The Examiner rejected claims 1-21 as being directed to non-statutory subject matter. The Applicants have amended independent claims 1, 8, and 15 to more clearly recite "producing a computer group communications configuration." The Applicants assert that by producing the "computer group communications configuration," the claimed invention produces a "useful, tangible and concrete" result. As such, the Applicants assert that these claims, as amended, are directed to patentable subject matter.

Furthermore, the Applicants assert that claims 8-14 are directed to "a member of a computing system group." The Applicants assert that it is clear that "a member of a computing system group" is clearly a processing entity. The background section of the Applicants' specification defines a "member" of a computing system group as "a node that is part of a group." Specification, page 1, lines 14-15; and page 6, lines 26-27. The Applicants therefore assert that the claimed "member of a computing system group" is a "machine or manufacture" as discussed, for example, in the New Guidelines of October 26, 2005 recited in the subject Office Action on page 3, first paragraph. Therefore, the

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Applicants assert that the "member of a computer system group" that is the subject of claims 8-14 is therefore statutory subject matter.

With regards to claims 15-21, the Applicants have amended these claims to specify that "the program being tangibly embodied in the signal bearing medium." The Applicants assert that claims 15-21, as amended, are drawn to statutory subject matter.

For the above listed reasons, the Applicants assert that the rejection of claims 1-21 under 35 U.S.C. 101 has been overcome, and should be withdrawn.

Claim Rejections - 35 USC § 102(e)

The Examiner objected to Claims 1-21 under 35 U.S.C. § 102(e) as being anticipated by *Bergsten*, U. S. Patent Publication Number 2003/0204539 (hereinafter "*Bergsten*"). The Examiner cites 35 U.S.C. § 102(b) and a proper rejection requires that a single reference teach (i.e., identically describe) each and every element of the rejected claims as being anticipated by *Bergsten*.¹

The Applicants have amended independent claims 1, 8 and 15 to more clearly recite that "the new member is within the subgroup and is thereby able to control the at least one resource." Support for these amendments is found in the specification at, for example, page 8, lines 7-12. No new matter has been added by these amendments. The Applicants assert that the *Bergsten* reference does not teach or suggest an equivalent of the claimed "member" that "is within the subgroup and is thereby able to control the at least one resource" as is set forth for the amended independent claims. The *Bergsten* reference teaches "nodes," which appear to be storage devices, and "hosts," which are, for example, server systems. *Bergsten*, page 2, paragraph 0027. The Applicants assert

¹ See MPEP §2131 (Emphasis Added) "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim."

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that “control” of “at least one resource,” as is set forth for the amended independent claims, is not taught or suggested by Bergsten.

The Applicants assert that the “hosts” of Bergsten are limited to accessing data on “nodes” and that no “control” of resources, such as the data storage nodes, is taught or suggested. Further, grouping of the “hosts” of Bergsten, such that “hosts” in a subgroup are “thereby able to control the at least one resource” is also not taught or suggested.

The Applicants note the Bergsten reference describes a “storage controller 400.” Bergsten, page 3, paragraph 0031. The Applicants point out that Bergsten has no discussion of assigning storage controllers to a subgroup or of replacing storage controllers, as is set forth for the independent claims. Furthermore, the Applicants point out that since a separate “storage controller 400” is described, the “nodes” and “hosts” discussed in the remainder of Bergsten cannot serve to “control the at least one resource” as is set forth for the independent claims.

Furthermore, the Applicants assert that the “communications links” of Bergsten cannot be a teaching of a “resource” within the context of the currently claimed invention since the “nodes” of Bergsten do not control the communications links.

The Applicants have further amended these claims to recite “configuring, in response to determining the new member is within the subgroup and is thereby able to control the at least one resource, the new member to control the at least one resource that was controlled by the old member. Support for these amendments is found in the specification at, for example, page 14, lines 9-21. No new matter has been added by these amendments. As discussed above, the Bergsten reference does not teach or suggest changing the control of resources. Therefore, the Applicants assert that the Bergsten reference does not teach or suggest this limitation.

The Applicants have further amended these claims to recite “replacing, in response to determining the new member is not in the subgroup and is thereby not able to

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control the at least one resource, the at least one resource with resources controlled by the new member. Support for these amendments is found in the specification at, for example, page 14, lines 22-27. No new matter has been added by these amendments. Again, the Applicants assert that the Bergsten reference does not teach or suggest “hosts” controlling resources, and therefore does not teach or suggest this limitation.

With regards to claims 4, 11 and 18, the Applicants have amended these claims to more clearly specify that “the old member was a primary member of the subgroup and the new member becomes a backup member of the subgroup, wherein the old member and the new member are able to control the at least one resource and the new member assumes control of the at least one resource.” Support for these amendments is found in the specification at, for example, page 14, lines 11-19. No new matter has been added by these amendments. The Bergsten reference does not teach or suggest “subgroups” as are defined by the currently amended claims, where a “member is within the subgroup and is thereby able to control the at least one resource.” The Applicants therefore assert that the Bergsten reference does not teach or suggest this limitation.

With regards to claims 5, 12 and 19, the Applicants have amended these claims to recite “wherein the new member replaces the old member in a backup priority.” Support for these amendments is found in the specification at, for example, page 9, lines 20-28. The Applicants assert that the Bergsten reference does not teach or suggest this limitation.

With regards to claims 7, 14 and 21, the Applicants have amended these claims to recite “selecting a new resource to be substituted for the at least one of the at least one resource, and wherein the new member is selected based upon its controlling the new resource that is selected to be substituted for the at least one of the at least one resources.” Support for these amendments is found in the specification at, for example, page 16, lines 19-25. No new matter has been added by these amendments. The Applicants assert that the Bergsten reference does not teach or suggest controlling resources, and therefore cannot teach or suggest this limitation.

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The Applicants further point out that dependent claims 2-7, 9-14 and 16-21 depend from claims 1, 8 and 15, respectively. As discussed above, claims 1, 8 and 15 distinguish over the Bergsten reference. Since dependent claims include all of the limitations of the claims from which they depend, the Applicants point out that claims 2-7, 9-14 and 16-21 also distinguish over the Bergsten reference. The Applicants therefore respectfully assert that the rejection of claims 1-21 under 35 U.S.C. §102 should be withdrawn.

CONCLUSION

The Applicants have reviewed the other prior art made of record and believe that they do not affect patentability of the currently amended claims.

The foregoing is submitted as full and complete response to the Official Action mailed January 25, 2006, and it is submitted that Claims 1-21 are in condition for allowance. Reconsideration of the rejection is requested. Allowance of Claims 1-21 is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

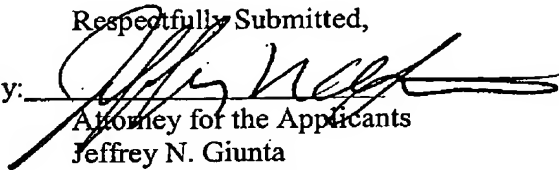
Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §§ 1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment are limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

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Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE CALL the undersigned if that would expedite the prosecution of this application.

Date: April 25, 2006

Respectfully Submitted,
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